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In re Application of :
GOLLER, et al. : DECISION ON
Serial No.: 10/578,233 :
PCT No.: PCT/US04/36477 : RENEWED PETITION
Int. Filing Date: 03 November 2004 :
Priority Date: 03 November 2003 : UNDER 37 CFR 1.47(a)
Atty Docket No.: TEVBNP 3.3-167 :
For: SOFT STEROID COMPOSITIONS FOR :
USE IN DRY POWDER INHALERS :
:

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(a)" filed 08 September 2008 to accept the application without the signature of inventor Ramesh Yanamandra.

BACKGROUND

On 13 June 2007, applicant filed a petition under 37 CFR 1.47(a) to accept the application without the signatures of joint inventors Qi Li, Katherine Salas, Anayo Michael Ukeje and Ramesh Yanamandra. On 30 August 2007, a decision was mailed dismissing the petition and indicating that Petitioner had failed to provide factual proof that the nonsigning joint inventors refused to execute the application or could not be reached after diligent effort.

On 04 March 2008, Petitioner filed a renewed petition. On 02 May 2008, a decision was mailed dismissing the petition as moot with regard to previous non-signing inventors Qi Li, Katherine Salas and Anayo Michael Ukeje and dismissing the petition without prejudice with regard to inventor Ramesh Yanamandra.

On 05 May 2008, applicant filed a renewed petition, which was dismissed by a decision mailed 03 July 2008 indicating applicant had failed to provide complete declarations of the joint inventors.

On 08 September 2008, applicant filed the instant renewed petition under 37 CFR 1.47(a) along with a complete declaration.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR

§1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously satisfied Items (1), (2) and (3). With regard to Item (4) above, the 37 CFR 1.47(a) applicant submitted a declaration signed by some of the joint inventors on behalf of themselves and the nonsigning joint inventor Ramesh Yanamandra. However, the declaration, submitted on 08 September 2008, was not executed by another of the joint inventors, Mohammed Nurui Momlin. Such declaration is necessary for compliance with the requirements of 37 CFR 1.497(a) and (b). As explained in the decisions mailed on 02 May and 03 July 2008¹, the multi-page declaration, executed by Mr. Momlin, was unacceptable as filed.

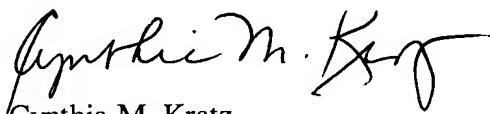
Petitioner has not satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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¹ "The declaration, as filed, is unacceptable. The declaration is a four page declaration but is comprised of eight pages: one Page 1, and two Page 2s, three Page 3s and two Page 4s. The pages are executed by different inventors. The declaration appears to be a composite declaration created from the combination of separately executed declarations. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. Thus, the declaration is not properly executed. While it is acceptable for applicants to execute separate copies of the declaration, *the entire declaration, as executed by the inventor, must be submitted*. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." *See* MPEP 201.03. The declaration is unacceptable as filed as the requirements of 37 CFR 1.497 (a) and (b) have not been met."